

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DE'ANDRE IVISON WESTON,

Plaintiff,

v.

DR. JOANNA,

Defendant.

1:24-cv-00638-HBK (PC)

ORDER DISCHARGING ORDER TO SHOW
CAUSE

(Doc. No. 9)

ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*

(Doc. No. 10)

ORDER DIRECTING PAYMENT
OF INMATE FILING FEE BY THE
KERN COUNTY SHERIFF

Plaintiff, who is incarcerated at the Lerdo Pretrial Facility, initiated this action on May 30, 2024, by filing a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1, Complaint). Plaintiff initially filed a motion to proceed *in forma pauperis* on August 2, 2024 but did not provide a copy of his prison trust account statement reflecting the 6 months of transactions prior to the filing of the Complaint nor have the "Certificate" section of the application completed by an authorized correctional official. (See Doc. No. 7). The Court therefore issued an Order directing Plaintiff to either provide the missing financial information or pay the filing fee within 21 days. (Doc. No. 8). After Plaintiff failed to do so, the Court issued an Order to Show Cause why the matter should not be dismissed for Plaintiff's failure to submit a

complete application to proceed IFP or pay the filing fee. (Doc. No. 9). Plaintiff subsequently submitted a second application to proceed IFP, which again lacked the required financial information. (*See* Doc. No. 10). In a note attached to the application, Plaintiff explained that despite his diligent efforts to have jail officials provide the required financial information, they had not responded to his requests. (*Id.* at 3). Plaintiff asserts he has no cash or savings of any kind. (*Id.* at 2).

Plaintiff has made the showing required by § 1915(a) to proceed *in forma pauperis* but remains obligated to pay the full statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1). Because the Court lacks information regarding Plaintiff's trust account balance and average deposits it will not assess an initial payment pursuant to § 1915(b)(1)(A)¹. Plaintiff must make monthly payments in the amount of twenty percent (20%) of the preceding month's income credited to Plaintiff's trust account to pay toward the full filing fee. 28 U.S.C. § 1915(b)(2). The Kern County Sheriff is required to send to the Clerk of the Court payments from Plaintiff's account each time the amount in the account exceeds \$10.00, until the statutory filing fee is paid in full. *Id.*

According, it is **ORDERED**:

1. Plaintiff's application to proceed *in forma pauperis* (Doc. No. 10) is **GRANTED**.
2. **In accordance with 28 U.S.C. § 1915 (b)(2), the Kern County Sheriff or his designee shall make future monthly payments in an amount equal to twenty percent (20%) of the preceding month's income credited to the Plaintiff's trust account each time the amount in the account exceeds \$10.00, until a total of \$350.00 has been collected and forwarded to the Clerk of the Court.** The payments shall be clearly identified by the name and number assigned to this action.
3. The Clerk of the Court is directed to serve a copy of this Order and a copy of Plaintiff's *in forma pauperis* application (Doc. No. 10) on the Kern County Sheriff located at 1350 Norris Rd, Bakersfield, CA 93308.

¹ The statute requires an initial filing fee of 20% of the greater of the six-months average monthly deposits or average monthly balance. 28 U.S.C. § 1915(b)(1)(A), (B).

4. The Clerk of the Court is directed to serve a copy of this Order on the Financial Department, U.S. District Court, Eastern District of California, Sacramento Division.
5. The Court discharges its September 3, 2024 Order to Show Cause (Doc. No. 9).

Dated: September 30, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE